

EPA's Small Business Compliance Policy

Background and Purpose

This Policy promotes environmental compliance among small businesses by providing them with special incentives. EPA will eliminate or reduce penalties for small businesses that voluntarily discover, promptly disclose, and correct violations in a timely manner.

EPA wants to encourage small businesses to learn about environmental compliance and pollution prevention through the wide range of training, checklists, mentoring, and other activities now available to small businesses through regulatory agencies, private organizations, non-profit organizations, and the Internet. Therefore small businesses that voluntarily discover a violation because they utilized these types of activities may have the penalty eliminated if they meet all the criteria in the Policy.

Effective Date and Citation

This policy took May 11, 2000, and it supersedes the June 1996 version. It was published in the *Federal Register* on April 11, 2000 65 FR 19630.

Who Qualifies to Use this Policy

For purposes of this Policy, a small business is defined as a person, corporation, partnership, or other entity that employs 100 or fewer individuals across all facilities and operations owned by the entity. Entities can also include small governments and small organizations.

How to Qualify for Penalty Elimination or Reduction

EPA will eliminate the entire civil penalty* if a small business satisfies all four of the criteria below:

- (1) The small business voluntarily discovers a violation. Violations could be discovered after attending training classes or seminars, receiving on-site compliance assistance, participating in mentoring programs, or using compliance guides or checklists downloaded from the Internet.
- (2) The small business voluntarily discloses the violation within 21 days. This disclosure must be sent in writing to the regulatory agency.
- (3) Corrections Period – the business corrects the violation and remedies any damage associated with the violation within 180 days of its discovery. However, if the correction will take longer than 90 days, a written schedule will be necessary. For small businesses that are correcting the violation by using pollution prevention technologies, they may have an additional period of 180 days, i.e. up to a period of 360 days.

- (4) The Policy applies if the:
- a.) Violation has not caused actual serious harm to public health, safety, or the environment;
 - b.) Violation is not one that may present and imminent and substantial endangerment to public health or the environment;
 - c.) Violation does not involve criminal conduct;
 - d.) Facility has an appropriate compliance record. The small business hasn't used this Policy for a violation of the same or similar requirement within the past 3 years and has not been subject to two or more enforcement actions for any environmental violations in 5 years; and
 - e.) Violation has not already been discovered by the agency through inspections or citations, or other methods. A legally required monitoring procedure was not violated.

Please see the actual Policy for more specifics on the criteria and on violations that are ineligible.

*In the rare instance where the small business has obtained a significant economic benefit from the violation(s) (i.e., economic advantage over its competitors), EPA will waive 100% of the gravity component of the civil penalty, but may seek the full amount of any economic benefit associated with the violations. As of March 2000, EPA has never sought to collect economic benefit since this Policy was originally issued in 1996.

Applicability to States

EPA will defer to comparable State and Tribal Policies if they are generally consistent with this Policy.

For More Information contact Ginger Gotliffe at 202-564-7072 or visit <http://www.epa.gov/oeca/smbusi.html>.

Information about using the Policy, questions and answers, the types of violations that have been disclosed and any disclosures that have prompted EPA to collect economic benefit will be posted and periodically updated on the website.